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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,901	10/02/2003	David Tye	021878.0005US1	2357

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ROBERT D. FISH  
RUTAN & TUCKER LLP  
611 ANTON BLVD 14TH FLOOR  
COSTA MESA, CA 92626-1931

EXAMINER

OKEZIE, ESTHER O

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/678,901	TYE, DAVID
	<b>Examiner</b>	<b>Art Unit</b>
	Esther O. Okezie	3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 9-11 is/are rejected.
- 7) Claim(s) 6-8 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "pneumatic fingers to release the bottle" of claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 and 11 recite the limitations involving methods that do not appear in claim 8 to which they refer. It appears that these claims should depend from claim 9 instead of claim 8.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Dries. It is noted that the applicant is claiming the subcombination of a gripper for gripping a bottle and not the combination of a gripper and a bottle. Although Dries utilizes the device disclosed to grip pans of various weights and sizes, this tool is inherently capable of gripping objects of variable round size including bottle necks in that it utilizes

an adjustable slide gripping mechanism. The tool disclosed is also inherently capable of gripping a bottle about the neck during cleaning, capping and filling of the bottle.

4. Regarding claim 1 Dries discloses a device adapted to contact a bottle at discrete points (fingers 14,15,19,20) comprising less than 25 % of the total circumference of the crown neck.
5. Regarding claim 2 Dries discloses the device of claim 1, wherein the bottle has a 360 degree circumference and the discrete points comprise less than 90 degrees of arc (see figures 1-4).
6. Regarding claim 3 Dries discloses the device of claim 2, wherein device contacts the bottle at 4 distinct points (fingers 14,15,19,20).
7. Regarding claim 4 Dries discloses the device of claim 3, wherein the device has a stationary gripping member (parallel bars 10 and 11 along with fixed jaw 14) and a biased gripping member (adjustable jaw member 16).
8. Regarding claim 5 Dries discloses the device of claim 4, wherein the biased gripping member is biased toward the stationary gripping member by at least one spring (springs 25).
9. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kronseder.

10. Regarding claim 1 Kronseder discloses a transport star for containers that "can be adjusted quickly and easily to accommodate different-sized containers" including bottle necks (column 1, lines 33-36). This device is capable of gripping the crown neck of a bottle during cleaning, capping, and filling wherein the device is adapted to contact a bottle at discrete points (pads 20) comprising less than 25 % of the total circumference of the neck.

11. Regarding claim 2 Kronseder discloses the device of claim 1, wherein the bottle has a 360 degree circumference and the discrete points comprise less than 90 degrees of arc (see figure 1).

12. Regarding claim 3 Kronseder discloses the device of claim 2, wherein the device contacts the bottle at 4 distinct points (pads 20).

13. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schroder.

14. Regarding claim 9 Schroder discloses a method of transferring glass bottles by an apparatus capable of griping the bottles during cleaning, filing, capping, etc. The apparatus is capable of transferring necks of varying diameters by automatic adjustment (column 1, lines 20-26). The apparatus contacts the bottle at either 2,3, or 4 discrete points along the circumference of the neck by the variability of tong fingers 42 and projecting portions 43 (column 2, lines 85-90).

15. Regarding claim 10 the tong fingers, which are biased closed by a spring 30, apply pressure to the bottle in engagement, adjusting the grip pressure to the diameter of the bottleneck (column 4, lines 70-90).

16. Regarding claim 11 the tong fingers 42 are separated by air pressure that is admitted the cylinders 25, when the piston 28 is depressed the slides 39 of the tongs separate, releasing the bottle (column 4, lines 90-100).

***Allowable Subject Matter***

17. Claims 6, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (703) 305-0433. The examiner can normally be reached on Mon-Fri 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

eeo



KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

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